dismantling the school-to-prison pipeline

NAACP LEGAL DEFENSE
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LDF

the school-to-prison pipeline:

racial segregation

DISMANTLING THE SCHOOL-TO-PRISON PIPELINE

Overview

Criminal justice policy in the United States has for some time now spurned rehabilitation in favor of long and often permanent terms of incarceration, manifesting an overarching belief that there is no need to address root causes of crime and that many people who have committed crimes can never be anything but "criminals." These policies have served to isolate and remove a massive number of people, a disproportionately large percentage of whom are people of color, from their communities and from participation in civil society.

In the last decade, the punitive and overzealous tools and approaches of the modern criminal justice system have seeped into our schools, serving to remove children from mainstream educational environments and funnel them onto a one-way path toward prison. These various policies, collectively referred to as the School-to-Prison Pipeline, push children out of school and hasten their entry into the juvenile, and eventually the criminal, justice system, where prison is the end of the road. Historical inequities, such as segregated education, concentrated poverty, and racial disparities in law enforcement, all feed the pipeline. The School-to-Prison Pipeline is one of the most urgent challenges in education today.

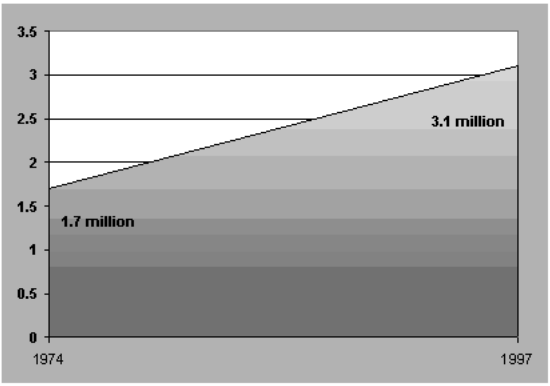
the school-to-prison pipeline:

high concentrations of poverty

Punishment Without a Crime

Despite indicators showing that violence among youth is decreasing across the country,[1] the perception persists among the public that school violence is a growing problem. In response to these sometimes irrational fears of school violence, school administrators have developed a variety of over-zealous discipline policies—including mandatory "zero tolerance" policies—that remove students deemed to be "problem children" from their schools.

NATIONWIDE INCREASE IN THE NUMBER OF SCHOOL SUSPENSIONS[5]



The reliance on disciplinary methods that remove students from school has reached alarming levels. Throughout the United States in 2000, there were over three million school suspensions and over 97,000 expulsions. In some states, the number of suspensions exceeded 10% of the number of students enrolled in school in those states.[2] This kind of wholesale exclusion from the educational process does nothing to teach children positive behavior. Moreover, taking children out of school for even a few days disrupts their education and often escalates poor behavior by removing them from a structured environment and giving them increased time and opportunity to get into trouble. Studies have shown that a child who has been suspended is more likely to be retained in grade, to drop out, to commit a crime, and/or to end

up incarcerated as an adult.[3] Indeed, many schools are further expediting the flow of children out of the schools and into the criminal justice system by doling out a double dose of punishment for students who misbehave. In addition to being suspended or expelled, students are also increasingly finding themselves arrested or referred to law enforcement or juvenile court and prosecuted for behavior at school.[4]

Although concerns about school violence are used to justify these policies, many suspensions, expulsions and even arrests are for minor conduct that is typical, adolescent behavior. Examples abound of students facing removal from school and criminal sanctions for conduct such as pushing other students, throwing food, cursing, or disobeying a teacher.[6] Even pre-schoolers, who can hardly be said to pose a danger to classmates or staff, have been suspended or expelled in increasing numbers. According to a recent study, nearly seven of every thousand pre-schoolers is expelled from state-funded pre-school programs—over three times the rate of expulsions in grades K-12.[7]

A Failing Education System—the Entry Point into the Pipeline

Addressing the School-to-Prison Pipeline requires focusing on where it begins: a neglected and under-resourced public education system. Recent research has confirmed what educators have known for quite some time—there are direct correlations between inputs and outputs in schools.[8] Specifically, fewer resources and attention to students yield poor educational achievement and poor behavioral outcomes. The inadequacies of the public educational system, especially in areas of concentrated poverty, have set students up to fail, as continuing resource deficiencies—evidenced by a lack of experienced or certified teachers and guidance counselors, advanced instruction, early intervention programs, extracurricular activities, and safe, well equipped facilities—lock

many students into second-class educational environments that neglect their needs and make them feel disengaged from their schools. Many schools that are labeled as "failing" or even "dangerous" simply do not receive the inputs they need to promote a healthy, sustainable educational environment. As a result, the negative labels placed upon both schools and students become self-fulfilling prophecies.

In addition to impacting students' behavior, the lack of sufficient resources in our schools also creates perverse incentives for school officials to remove children from school. Ironically, some of the hallmarks of modern education reform—including demands for greater accountability, extensive testing regimes, and harsh sanctions imposed on schools and teachers—actually encourage schools to funnel out those students whom they believe are likely to drag down a school's test scores. Rather than address the systemic problems that lead to poor educational performance, harsh discipline policies provide schools with a convenient method to remove certain students and thereby mask educational deficiencies. Second, the overuse of suspensions, expulsions and arrests is itself a reflection of this lack of resources. Many well-intentioned educators want to help troubled students. Yet, due to a lack of guidance counselors and useful intervention programs, they feel that they have no alternatives at their disposal. So they too often take the easier road by suspending or expelling students or, in some cases, using law enforcement agencies and juvenile courts as their disciplinary arm.

In the end, however, the easy way out is also the costliest. When kids are removed from school, they end up in inferior settings such as suspension centers, alternative schools, and juvenile prisons—places where meaningful educational services are practically nonexistent and students with histories of behavioral problems can negatively influence one another. This is especially disturbing

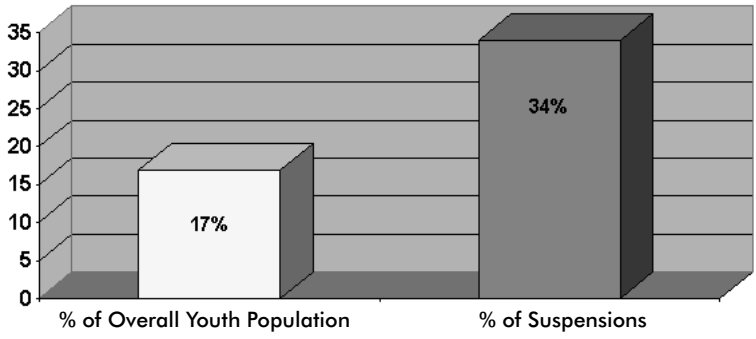
because, in many cases, these are the same children who have special learning needs that went unmet in school. While only approximately 8.6% of children in public school have been identified as having disabilities that impact their ability to learn,[9] a recent study found that, on average, approximately 32% of youth in juvenile corrections had been previously identified as having special learning needs.[10] Experts say that in some states such as Florida and Maine, as many as 60% of all juvenile offenders have disabilities that affect their ability to learn.[11]

Many of these young people never reenter the mainstream educational system, and the loss to society is immeasurable. Not only do communities lose the potential talents that these students hold, but they also commit themselves to expending vast resources—far greater than the resources it would take to adequately fund public education—to deal with the problems that these students will likely pose when they grow into adults.

Racial Disparities in the Pipeline

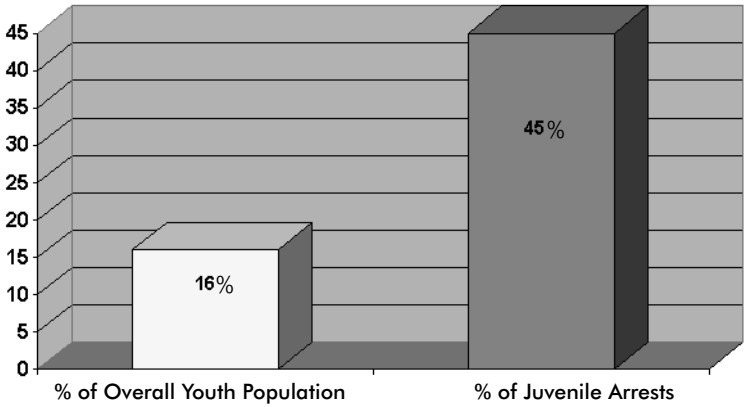
What has been true in the criminal justice system is also true in the School-to-Prison Pipeline: African Americans, especially young black males, have felt

AFRICAN-AMERICAN OVER-REPRESENTATION IN SUSPENSIONS NATIONWIDE (2000)



the school-to-prison pipeline:
juvenile detention

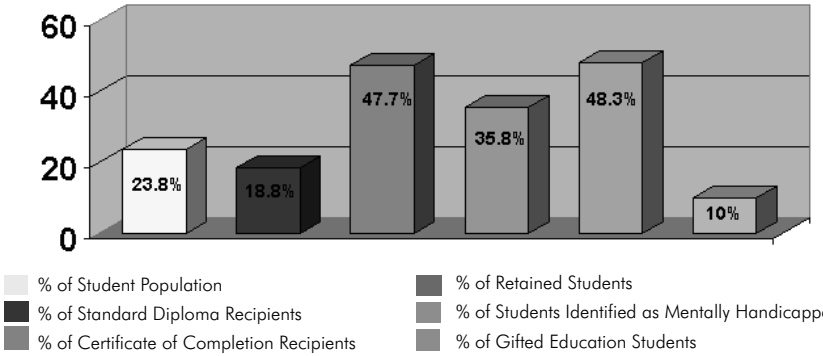
AFRICAN-AMERICAN OVER-REPRESENTATION IN JUVENILE ARRESTS NATIONWIDE (2003)



the brunt of the dramatic policy shift away from education and towards incarceration. For example, in 2000, African Americans represented only 17% of public school enrollment nationwide, but accounted for 34% of suspensions.[12] Likewise, in 2003, African-American youths made up 16% of the nation's overall juvenile population but accounted for 45% of juvenile arrests.[13] Moreover, studies show that African-American students are far more likely than their white peers to be suspended, expelled, or arrested for the *same kind* of conduct at school.[14]

In part, these disparities are the result of the longstanding racist stereotype that African Americans, especially men and boys, are dangerous and predatory. But the disparities are also part and parcel of the continuing disparities in the quality of education available to African Americans. Historically, African-American children and other children of color have been denied access to equal educational opportunities. Despite a decades-long fight to desegregate schools

FEEDING THE PIPELINE: EDUCATION DISPARITIES FOR AFRICAN AMERICANS IN FLORIDA[18]



In nearly every aspect of the education system, African-American students are over-represented in negative categories (such as sub-standard high school completion and retention) and under-represented in positive categories (such as standard diplomas).

and the more recent battles around education funding and adequacy, it has become increasingly clear that the problems of access to quality education for African-American students are deeply entrenched and rooted in the legacy of this country's racial caste system. Now, more than fifty years after the Supreme Court's landmark decision in *Brown v. Board of Education,*[15] the School-to-Prison Pipeline poses a new generation of obstacles that serve to further isolate African-American students and deprive them of the opportunity to learn.

Several indicators demonstrate that the racial disparities in the pipeline begin in schools. The well documented "achievement gap" between African Americans and other students is a persistent problem. Nationwide, African-American students are over-represented in special education categories and under-represented in advanced placement courses and gifted education.[16] Only approximately 50% of all African-American ninth-graders will graduate with their

class in four years. In Florida, the situation is even more dire, with only 45% of African Americans over all and a mere 38% of African-American males graduating on time.[17]

Likewise, African-American students are more likely to be retained in grade based upon their performance on high stakes tests. For example, again in Florida, although African Americans make up less than 24% of the overall student population, they account for nearly 36% of the students retained. Notably, retention and educational problems are themselves causes of behavioral issues, as students struggle with the stigma and isolation of being stuck in classes with children younger than themselves while their peers move on.

Thus far, little has been done to address this achievement gap, and as the modern culture of accountability has created perverse incentives for schools to remove any students who may affect their bottom line, it has had this effect even more so for African-American students. Instead of rectifying the structural barriers to academic success for African-American students, schools have replicated the inequities by shuttling countless numbers of African-American students into lower education tracks and removing them from school altogether through zero tolerance and other harsh discipline policies. In this way, school systems ignore deficiencies of the education system and feed the School-to-Prison Pipeline.

Solutions and Alternatives

Although the problems associated with the School-to-Prison Pipeline are daunting, they are not intractable. The first step toward dismantling the pipeline is to take a critical look at existing school discipline policies, the actual practices of schools and law enforcement, and the impact of those polices and practices. In the vast majority of cases, data demonstrates that policies or practices seen in the School-to-Prison Pipeline are counterproductive and lack a pedagogical underpinning. In fact, many of these policies not only label children as criminals, but they also encourage children to lose hope, making it more likely that they will wind up behind bars. These policies, and the incentive to pursue them, should therefore be eliminated or suspended while communities propose alternatives.

It goes without saying that students cannot learn if the school environment is not safe. However, while students' safety should be a priority, there are many ways to keep schools safe without implementing exclusionary discipline policies. Across the country, parents, educators, students, judges, juvenile justice professionals and police officers have crafted programs that have achieved positive results while keeping children in mainstream educational environments. Social services-based truancy intervention programs, peer mediation, after school programs, intensive guidance counseling, and conflict resolution programs are just a few examples of the kind of efforts that have proven successful.

In the long run, however, it will be necessary to address head-on the grave crisis and racial disparities in public education. While programs can be created to address some of the individual needs of students, it will take a true community reinvestment in our schools to give students the educational opportunities that will allow them to realize their potential. Instead of excluding so many children from educational opportunity, school systems must provide services in a manner consistent with the notion that every child can succeed. The goal of creating safe, sustainable school communities depends on it.

LDF'S DISMANTLING THE SCHOOL-TO-PRISON PIPELINE INITIATIVE

Many organizations across the country have initiated efforts to dismantle the School-to-Prison Pipeline. LDF has partnered with a variety of these groups, ranging from national public policy outfits to local youth organizing groups. The following is a summary of some of LDF's recent work on this issue:

Tallulah Prison-to-School Conversion Campaign

LDF is part of a community-led coalition in Tallulah, Louisiana, that is campaigning to convert a former juvenile detention facility into a community college and regional educational center. The facility was originally built in an impoverished African-American community, where it has had a substantial negative impact on the area's ability to spur economic development. Through grass-roots organizing efforts and litigation regarding the conditions of confinement at the juvenile detention facility, a coalition of lawyers, activists, parents and youth has succeeded in shutting down the facility as a juvenile detention center; however, it is now being operated as a "rehabilitation center" for DUI offenders and houses other adult prisoners. LDF is assisting the coalition in developing legal strategies to facilitate the conversion of the juvenile detention facility to an educational center. If successful, this first of its kind campaign will literally reverse the School-to-Prison Pipeline in Louisiana by reducing reliance on incarceration, expanding educational opportunity and helping to create a more sustainable community.

The Tallulah campaign has attracted a broad range of partners, including the Juvenile Justice Project of Louisiana, Families and Friends of Louisiana's Incarcerated Children, Northeast Louisiana Delta Community Development Corporation, Southern Rural Development Initiative, and the Southern Center for Human Rights. Professional firms participating in the effort include Concordia Architecture & Planning, Esopus Creek Communications, the law firm Skadden, Arps, Slate, Meagher & Flom, LLP and Picture Projects.

MS Coalition for the Prevention of Schoolhouse 2 Jailhouse

Since 2001, LDF has worked with various educational advocacy groups across Mississippi on school discipline and juvenile justice issues. These advocates were among the first in the country to explicitly draw the links between educational deprivations and harsh discipline policies. As the coalition developed through grassroots organizing and executed a large-scale plan for revolutionizing Mississippi's juvenile justice and education systems, LDF served as a national partner providing advice, training and specialized assistance to local organizers.

To date, the Coalition counts among its successes the passage of an omnibus juvenile justice reform act and the wholesale reform of the state's training schools—long-term boot camps for youth adjudicated as delinquent.

Providing Support for State-Level Advocates to Challenge the School-to-Prison Pipeline

In October of 2004, LDF joined The Civil Rights Project at Harvard University to co-sponsor a roundtable discussion on School-to-Prison Pipeline issues for advocates from four target states: California, Massachusetts, North Carolina

and Texas. The roundtable provided an opportunity for a diverse group of advocates, including educators, community organizers, lawmakers, judges and other juvenile justice professionals to share best practices and methods to address phenomena associated with the School-to-Prison Pipeline.

Drawing upon the dialogue that took place during the roundtable and subsequent meetings and conversations, The Civil Rights Project and LDF will publish a Litigation Guidance and a Legislative Guidance on ways to address the School-to-Prison Pipeline. These texts will serve as a resource for both experienced advocates and novices alike.

New York City Department of Education's Impact Schools Policy

The New York City Department of Education's "Impact Schools" program is among the most aggressive and explicit School-to-Prison Pipeline policies in the country. Borrowing methodology from the New York City Police Department, schools perceived to have the highest levels of "crime" and violence are labeled as "Impact Schools". A report by the Drum Major Institute for Public Policy shows that the Impact Schools suffer from significant resource disparities, including severe overcrowding and lower per-pupil expenditures. Rather than address the educational inequities that contribute to negative student conduct, the policy floods these schools with police officers and surveillance equipment. As a result, an alarming number of students are removed from their schools and placed in suspension centers, alternative schools, and juvenile detention facilities.

LDF is currently exploring ways to address the City's failure to rectify the underlying educational and facilities problems

at Impact Schools, while laying the groundwork for a community organizing campaign and a citywide public awareness effort to counteract the policy more broadly. LDF's partners in this effort include the Prison Moratorium Project, the New York University Institute for Education and Social Policy, the National Center for School and Communities at Fordham University and the Bronx-based youth organizing group Sistas and Brothas United.

Challenging Discipline Policies and Practices in Florida Public Schools

In April 2005, a five-year-old African-American girl attending kindergarten at a St. Petersburg, Florida elementary school was arrested, handcuffed and shackled by police officers, then confined to a police cruiser for three hours. Her so-called "crime" was not wielding a weapon or threatening to harm other children; she threw a temper tantrum. School officials responded by calling the police. The incident, which sparked international outrage, placed renewed focus on the practices of law enforcement officers in schools. Sadly, this was not an isolated incident; the same types of actions by school officials and law enforcement officers are replicated in school systems throughout Florida.

In October 2005, LDF joined the Florida Conference of NAACP Branches and Advancement Project to hold a series of public hearings focused on School-to-Prison Pipeline issues and police practices within schools. The purpose of these hearings is to give students, parents, teachers, police officers and juvenile justice professionals an opportunity to share their experiences as they relate to school discipline, discuss alternatives to harsh discipline policies, and lay the foundation for school discipline reform. LDF and its partners will also conduct a broad media campaign to increase public awareness and develop a set of best practices regarding discipline policy and police presence on school campuses.

ENDNOTES

[1] Howard N. Snyder, *Juvenile Arrests 2003*, OJJDP Juvenile Justice Bulletin, at 5 (2005) ("Juvenile Arrests 2003") (finding juvenile Violent Crime Index arrest rate in 2003 was lowest since 1980 and 48% below peak year in 1994) (available at http://ojjdp.ncjrs.org).
[2] U.S. Department of Education, *NCES Digest of Education Statistics 2003*, at Table 147 (2004).
[3] Advancement Project and The Civil Rights Project at Harvard University, *Opportunities Suspended: The Devastating Consequences of Zero Tolerance and School Discipline Policies*, at 13 (2000) ("Opportunities Suspended").
[4] *Id.* at 15-16; Advancement Project, *Education on Lockdown: The Schoolhouse to Jailhouse Track*, at 13 (2005) ("Education on Lockdown").
[5] Kim Brooks, Vincent Schiraldi and Jason Ziedenberg, *School House Hype: Two Years Later*, Justice Policy Institute and Children's Law Center, at 18 (2000).
[6] *Id.* at 12-13; Russell J. Skiba, *Zero Tolerance, Zero Evidence: An Analysis of School Disciplinary Practice*, at 3-6 (2000) ("Zero Tolerance, Zero Evidence"); Opportunities Suspended, at 4-7.
[7] Walter S. Gilliam, *Prekindergarteners Left Behind: Expulsion Rates in State Prekindergarten Systems*, Yale University Child Study Center (2005).
[8] Fordham University, National Center for Schools and Communities, *Equity or Exclusion: the Dynamics of Resources, Demographics, and Behavior in the New York City Public Schools* (2003) (noting correlation between student behavior and level of teacher experience, qualifications and other resources at school); Drum Major Institute, *A Look at the Impact Schools* (2005) (finding that the New York City schools labeled as most dangerous are also large, severely overcrowded and under-funded).
[9] Sue Burrell and Lauren Warboys, *Special Education and the Juvenile Justice System*, OJJDP Juvenile Justice Bulletin, at 1 (July 2000).
[10] Mary M. Quinn, Robert B. Rutherford, and Peter E. Leone, *Students with Disabilities in Correctional Facilities*, ERIC Clearinghouse on Disabilities and Gifted Education (2001).
[11] Peter E. Leone and Sheri Meisel, *Improving Education Services for Students in Detention and Confinement Facilities*, The National Center on Education, Disability and Juvenile Justice (available at http://www.edjj.org/Publications/list/leone_meisel-1997.html).
[12] Education on Lockdown, at 18 (citing U.S. Department of Education, *2000 Office of Civil Rights Elementary and Secondary School Survey*).
[13] Juvenile Arrests 2003, at 9.
[14] Zero Tolerance, Zero Evidence, at 11-12; Opportunities Suspended, at 7-9; Russell J. Skiba, *et al.*, *The Color of Discipline: Sources of Racial and Gender Disproportionality in School Punishment* (2000).
[15] 347 U.S. 483 (1954).
[16] *Racial Inequity in Special Education* (Daniel J. Losen and Gary Orfield eds., 2002).
[17] The Civil Rights Project at Harvard University, *Confronting the Graduation Rate Crisis in the South*, at 2-3 (2005).
[18] All statistics are from the following 2005 Florida Department of Education sources: *Statistical Brief: Florida Public High School Graduates 2003-2004 School Year; Profiles of Florida School Districts 2003-2004, Student and Staff Data; Statistical Brief: Non-Promotions in Florida's Public Schools, 2003-2004*. Standard diplomas include GED certificates. Certificates of completion are awarded to students who do not pass Florida's Comprehensive Assessment Test (FCAT).

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